

REMARKS:

Claims 3, 8, 19 and 25 have been amended such that they are now presented as independent claims so that there is now a total of five independent claims which is equal to the number of independent claims originally presented. In addition the total number of claims is less than that originally presented such that NO ADDITIONAL CLAIMS FEES ARE REQUIRED.

All of the claims have been amended where necessary to provide minor corrections for reasons of clarity, consistency of language and antecedents to overcome the points raised by the Examiner in the objections and the Rejections under 35 U.S.C.112. Additional corrections have been made as noted during the preparation of this response.

Additional minor corrections have been made in the specification and drawings which are consistent with those made in the two co-pending applications so that all of the objections made in this application and the two co-pending applications have been collated and the necessary amendments made in all.

Minor corrections in the drawing of Figure 2 have been made and a replacement sheet of Figure 2 is enclosed.

The Examiner has kindly indicated the allowability of the features of Claims 3, 8, 19 and 25 as set forth in the paragraph at the top of Page 8 of the Official Action. These claims have been amended to be presented as independent claims including ALL of the features of the original claim and the claims from which the original claim depended. It is submitted therefore that these claims are allowable without further comment.

Claim 1 has been amended to more clearly point out the invention and to further distinguish the invention from the prior art cited of Takano and Wi.

Thus Claim 1 has been amended to make clear the following features:

- a) Each bench has a bench support located underneath the bench.

- b) In the first side wall (and the second side wall) the structure is formed by a plurality of vertical posts at equal spacings or spans between the posts with a transparent panel substantially filling the span between the posts.
- c) Each bench is associated with a respective one of the span and arranged such that the bench support of each bench is located between the posts of that span.

Thus Claim 1 is concerned with the construction in which the arrangement of the exterior structure and particularly the first side wall of that exterior structure is arranged relative to the number of benches and relative to the construction and spacing of the benches so each bench is associated with a respective one of the transparent panels at the spans between the posts.

The Examiner has cited Takano and Wi under 35 U.S.C. 103 in rejection of the original Claim 1. Takano discloses nothing in respect of the construction of the side walls and particularly the first side wall in relation to the arrangement of the benches. The Examiner appreciates this deficiency in Tankano and cites the patent of Wi. This patent is entirely silent about the structure of the first side wall and discloses nothing concerning the construction of the side wall. The Examiner is however pointing merely to the schematic illustration in Figure 1 which shows vertical and horizontal lines which may or may not relate to oval pipes which provide some support for the sheathing-type structure which is applied onto these pipes.

It is clear that from Figure 1 the pipes that are vertical are aligned with the horizontal pipes in the arched wall so that the spacing between these pipes in the horizontal direction in the end wall varies considerably across the width of the structure.

More importantly, the patent is entirely silent concerning any association between the number of pipes and the arrangement of the benches.

The Examiner has counted a number of benches which is equal to 10 and has counted the number of span and is also alleging that this is equal to 10. However this requires the Examiner to ignore the outermost very narrow span which extends vertically downwardly from the third horizontal rail in the arch section. There is presumably also a vertical post in the end wall which extends downwardly from the second horizontal rail in the arch. However this is not visible.

In order to more clearly distinguish the invention of Claim 1 from the prior art, therefore, this claim now specifies, as set forth above, that the spans are equal in width and that each is associated with a respective one of the benches so that the support for the bench is aligned with a respective span and located between the posts of the span.

Even if one were therefore to adopt the Examiner's assumptions concerning the disclosure of Wi, which it is submitted is incorrect, then clearly Wi does not disclose an arrangement in which the spans are equal in width and that each bench support is aligned with a respective span. It is clear that the second bench from the side wall is not located between the posts of a span but is indeed butting up against one post.

While it is submitted that such speculation based upon a schematic illustration is improper, even if one were to adopt such speculation, it is clear that Wi does not disclose these features and therefore a combination of Wi and Takano cannot itself disclose these features.

Based upon the amended claim, therefore, it is submitted that the Examiner has not established a prima facie case of obviousness based upon the combination set forth since neither of the references discloses the features now clearly included in this claim.

17

It is submitted therefore that Claim 1 as amended is in good order for allowance.

Respectfully submitted

DAVID BRAULT ET AL

PER:

Adrian D. Battison

Registration No: 31,726

ADB/II

May 11, 2005

Enc. (14)

Adrian D. Battison

Winnipeg, Manitoba, Canada

Telephone (204) 944-0032 - FAX (204) 942-5723

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) 872-9306, on May 11, 2005

LYNN LEATHERDALE

Lynn Leatherdale